



ORDINANCE NO. 3066-08

**An Ordinance Amending Paragraph J of Section 3 of Ordinance No. 2973-07
(EMC 19.07.020.J), as amended, Pertaining to the Permitted Height of
Buildings that are Accessory to Residential Uses**

WHEREAS, the City Council adopted Ordinance No. 2973-07, which substantially amended the regulations governing residential accessory buildings; and

WHEREAS, Paragraph J of Section 3 of Ordinance No. 2973-07 contains different regulations for the permitted height of accessory buildings, depending on whether lots have or do not have alley access; and

WHEREAS, subsequent to the adoption of Ordinance No. 2973-07, it has become apparent that the impacts of the height of accessory buildings are similar, regardless of whether or not a lot has alley access; and

WHEREAS, the Planning Commission held a public hearing on March 4, 2008 to consider public testimony concerning the proposed amendments to the regulations for accessory buildings and has recommended that the City Council amend the regulations pertaining to the permitted height of accessory buildings; and

WHEREAS, the City Council finds the following:

1. The proposed amendment is consistent with the Everett Comprehensive Plan;
2. The proposed amendment bears a substantial relation to the public health, safety and welfare; and
3. The proposed amendment promotes the best long term interests of the Everett community.

NOW, THEREFORE THE CITY OF EVERETT DOES ORDAIN:

Section 1: Paragraph J of Section 3 of Ordinance No. 2973-07, which reads as follows:

J. Accessory buildings shall not exceed 15 feet in height except as follows:

- 1) Attached accessory buildings may be constructed to the maximum height allowed by the zone in which it is located provided that the attached accessory building meets all setbacks required for the principal building.
- 2) Detached accessory buildings that are not located between the front lot line and the principal building and meeting all setbacks required for the principal building, or attached or detached accessory buildings within the principal building's required rear setback and having alley access may be constructed to a maximum height of 20 feet.
- 3) The Planning Director, using the review process described in EMC Title 15, Local Project Review Procedures, may allow attached or detached accessory buildings within the principal building's rear setback that do not have alley access to exceed the 15-foot height limitation provided that all of the following requirements are met;
 - a) The accessory building(s) shall not exceed 20 feet in height.
 - b) The accessory building(s) shall be compatible with the dwelling and/or neighborhood character. To make this determination, the Planning Director may consider such factors that include, but are not limited to, view obstruction, roof pitch, building materials, screening and landscaping, aesthetic impact on surrounding properties and streetscape, incompatible scale with dwellings on surrounding properties, and impact on neighborhood character. The Planning Director shall also have the authority to impose greater setback requirements, landscape buffers, or other locational or design requirements as necessary to mitigate the impacts of accessory buildings which are taller than otherwise allowed by this Section.
 - c) A covenant acceptable to the city attorney's office shall be recorded on the title to the property stating that the property owner acknowledges the requirements of this section, and stating that the use of any accessory structure is limited to accessory activities permitted by the zone in which the property is located, and that the accessory building shall not be converted to living area or used for any purposes which are not in full compliance with zoning and building code requirements.

Is hereby amended to read as follows:

- J. Accessory buildings shall not exceed fifteen feet in height except as follows:
 1. Attached accessory buildings may be constructed to the maximum height allowed by the zone in which it is located; provided, that the attached accessory building meets all setbacks required for the principal building.
 - 2) The planning director, using the review process described in EMC Title 15, Local Project Review Procedures, may allow attached or detached accessory buildings meeting all setbacks or within the principal building's rear setback to exceed the fifteen-foot height limitation; provided, that all of the following requirements are met:

- a. The accessory building(s) shall not exceed twenty feet in height.
- b. The accessory building(s) shall be compatible with the dwelling and/or neighborhood character. To make this determination, the planning director may consider such factors that include, but are not limited to, view obstruction, roof pitch, building materials, screening and landscaping, aesthetic impact on surrounding properties and streetscape, incompatible scale with dwellings on surrounding properties, and impact on neighborhood character. The planning director shall also have the authority to impose greater setback requirements, landscape buffers, or other locational or design requirements as necessary to mitigate the impacts of accessory buildings which are taller than otherwise allowed by this section.
- c. A covenant acceptable to the city attorney's office shall be recorded on the title to the property stating that the property owner acknowledges the requirements of this section, and stating that the use of any accessory structure is limited to accessory activities permitted by the zone in which the property is located, and that the accessory building shall not be converted to living area or used for any purposes which are not in full compliance with zoning and building code requirements.

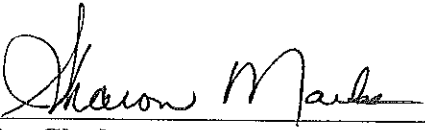
Section 2. Severability. Should any section, paragraph, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be preempted by state or federal law or regulations, this shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 3. Conflict. In the event there is a conflict between the provisions of this Ordinance and any other City ordinance, the provisions of this Ordinance shall control.

Section 4: The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection number and any references thereto.


RAY STEPHANSON, Mayor

ATTEST:


City Clerk

Passed: 4-16-08

Valid: 4-22-08

Published: 4-24-08

Effective Date: 5-07-08